

REMARKS

Claims 9, 14-16, and 30-46 are pending for consideration. Claims 14-16 and 35-45 are withdrawn from consideration. In this Amendment, applicants have amended claims 9 and 46. Support for the claim amendments is found throughout the specification.

The foregoing amendments of the claims should in no way be construed as acquiescence to any of the Examiner's rejections and were made solely to expedite prosecution of the application, and in order to narrow the outstanding issues for appeal, if an appeal becomes necessary. Applicants reserve the right to pursue claims to the canceled subject matter, or any subject matter which they are entitled to claim, in this or a separate application.

REJOINDER

It is respectfully requested that upon allowance of the claims under examination, that the withdrawn method claims be rejoined, as set forth under the MPEP.

REJECTIONS

Claim 9 is rejected under 35 U.S.C. §112, second paragraph, for being allegedly indefinite. The Examiner alleges that there is no antecedent basis for the recitations of alkyl, -CH₃, -SCH₃, and OMe as substituents on the R⁶ phenyl group. Applicants respectfully traverse this rejection. Claim 9 depends from claim 30. One of the definitions of R⁶ according to claim 30 is phenyl that is unsubstituted or mono- or polysubstituted by Hal, NO₂, CN, OH, CF₃, OCH(CF₃)₂, OCOCH₃ or A. According to claim 30, A is alkyl or cycloalkyl. Thus, there is clear antecedent basis for the recitations of alkyl or -CH₃ as substituents on the R⁶ phenyl group. Applicants have canceled the recitations of -SCH₃ and OMe as substituents on the R⁶ phenyl group in claim 9. Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. §112, second paragraph rejection of claim 9.

Claim 46 is rejected under 35 U.S.C. §112, first paragraph, as being allegedly non-enabled. Applicants have amended claim 46 to delete the recitation of “solvates.” Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. §112, first paragraph rejection of claim 46.

Provisional Double Patenting Rejections

Claims 1-13 are rejected on the ground of provisional obviousness-type double patenting (ODP) over claims 1-11 of co-pending Application No. 12/532,002, claims 1-11 of co-pending Application No. 11/916,952, and claim 1 of co-pending Application No. 11/631,185. Applicants submit that upon withdrawal of the other rejections, the Examiner should withdraw the provisional ODP rejection in accordance with MPEP § 804(I)(B)(1) and allow this case to issue because this is the earlier filed application.


CONCLUSION

In light of the above amendments and comments, Applicants respectfully request that all rejections and objections be withdrawn and that a timely Notice of Allowance should be issued in this application.

Should the Examiner believe that anything further is necessary in order to place this application in better condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.

In the event that additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefore are hereby authorized to be charged to our Deposit Account No. 01-2300 referencing docket number 030863-00011.

Respectfully submitted,

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